

virtue of what has happened to EPA and OSHA.

According to the independent SBA Office of Advocacy report:

[t]he panel process does not replace, but enhances, the regular notice-and-comment process.

The Office of Advocacy has also found that these small business review panels have facilitated "revisions or adjustments to be made to an agency draft rule that mitigated its potentially adverse effects on small entities, but did not compromise the rule's public policy objective."

It makes good sense that they would be able to consider less burdensome alternatives in the event this 60-day review process by a small business panel, which would be established and appointed by the bureau itself, would determine they would be more preferable than the ones that originally were being considered.

I understand the majority intends to offer a side-by-side amendment that astoundingly does not have the support of the small business community. An abundance of organizations support this amendment offered by Senator PRYOR and others, along with myself. We have more than 23 organizations that have supported this legislation.

Let's look at the alternative that may be offered. And I truly hope it isn't offered. As this chart reveals, the side-by-side my colleagues are proposing on behalf of the Treasury Department would be a diluted version of the amendment I am offering.

My amendment with Senator PRYOR would permit the small business voice to be heard before a rule is actually proposed. It certainly makes sense to know the consequences of any potential rules before they take effect, before they go through the rulemaking process.

The side-by-side that my colleagues may be offering includes a loophole under which the bureau could evade entirely its small business panel requirements, so the small business voice would never be heard if their amendment is adopted.

Mind you, the language in their amendment would take 90 days for the small business panel to make its report. My amendment would take 60 days. Their process would take 90 days, and it would be a permanent panel. I am not asking for a permanent panel. I am saying that whenever the bureau determines they will be proposing rules that would have a significant impact on a substantial number of small businesses, that the Bureau convene a small business panel in which they would have to complete their work within 60 days, the bureau would submit their report for consideration, and the bureau would have to consider the small business panel report as they develop their proposed rule, before they promulgate it.

The difference between my amendment and the side-by-side that could potentially be offered is they create a

permanent board and it is not even tied to rulemaking. They create a board that will meet four times a year. Now it is a bureaucracy within a bureaucracy. That is essentially what it is all about. It would create a bureaucracy within the bureau to meet four times a year for no particular purpose. Maybe they could consider small business economic effects from a potential rulemaking but maybe not, under this amendment. It clearly doesn't make any sense. And then it is an additional cost to the taxpayers. And it doesn't require, most importantly, the panel recommendations before the rules are actually proposed in the federal register. But even worse than that, they are not even required to consider any of the panel's recommendations, if they have any, before the final rule is issued. So that is a fairly major loophole in their amendment.

So here we are. We have the amendment Senator PRYOR and I have offered that would create a 60-day process that has been utilized time and again for the last 14 years and worked exceptionally well. They submit their proposal to the bureau. It is a panel established by the bureau. They can determine who will be represented in that panel. They can consider the recommendations as they draft their rules for the rulemaking process, at the outset before a rule is proposed.

In this case, on the other hand, the amendment my colleagues intend to offer—I know it is the Senator from Louisiana, Ms. LANDRIEU contains a loophole under which the Bureau would never have to consider the recommendations of the small business panel. They will meet four times a year for no particular purpose. It is not even tied to a rulemaking process.

I hope our amendment will be adopted. It really has already been established in precedent, in practice, not in theory. It is not conceptual; it is very real. Certainly, it will be real to small businesses in terms of whether it is going to have a major effect on their ability to conduct their business.

Our amendment builds on the current requirements under the Regulatory Flexibility Act. Since the Regulatory Flexibility Act was amended by the Small Business Regulatory Enforcement Fairness Act, SBREFA, back in 1996, to include these small business review panels, EPA has convened 35 panels and OSHA has convened 9 panels. It has worked very well.

Our amendment will ensure transparency in the regulatory process because the small business panel reports would be included in those proposed rules. It will allow the voice of small businesses to be heard at the front end of a regulation, before the proposed regulation has been published in the Federal Register. In contrast, the side-by-side amendment that potentially will be offered would expedite the bureau's rulemaking process and allow it to finalize onerous regulations that could crush small businesses without

considering first the small business effects either during the proposed or the final rule stage of the regulatory process.

I urge my colleagues to oppose the side-by-side amendment. It would establish a dangerous precedent of diluting not only current law in the way it now functions with respect to EPA and OSHA but also how it has been extremely successful. My amendment is an extension of current law as it applied to the Consumer Financial Protection Bureau.

As you will see on the next chart, we have strong support from a broad cross section of 23 stakeholders, representing millions and millions of small businesses across the spectrum—of course, the National Federation of Independent Business, known as NFIB; the Associated Building and Contractors; the National Restaurant Association; the National Lumber and Building Material Dealers Association; S Corporation Association; the U.S. Chamber of Commerce; the United States Black Chamber; the United States Hispanic Chamber of Commerce; Women Impacting Public Policy; the International Franchise Association; the Independent Electrical Contractors; the Hispanic Leadership Fund.

The list goes on, and rightfully so, because they understand what is at stake. They understand the effects it will have on small business. We want to make sure we have a very practical, real process that is going to work for small businesses.

I hope we are not going to disregard the invaluable voices of small businesses to have the ability to have input at the forefront of the regulatory process, and utilizing a process that has worked so well. I hope we would reject any other watered-down, side-by-side amendment because, as I have already pointed out, it has a number of weaknesses and a loophole. It establishes a permanent panel for no apparent reason and that is not necessarily tied to the rulemaking. But more critical is the fact that, under the side-by-side amendment, the Bureau can totally ignore and disregard the input. Even if they created one of these panels for a rule-making process, they do not have to consider it, either before the proposed rule is published or before the final rule is promulgated in the Federal Register.

Something does not make sense. The bottom line is, the side-by-side amendment would be a job killer for small business. So if we are talking about jobs, jobs, jobs—and I hope we are going to get to a small business tax relief bill. I have been hoping since January we are going to get to it because it is so critically important. I know there are a lot of things to consider here on the floor of the Senate, but primary of which should be about creating jobs. So while we are saying we want to create jobs on the one hand, and we are concerned about small businesses' economic well-being on the other hand, we